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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,458	03/27/2001	Gcoffrey S. Martin	2409.3273.3US	2544
57600	7590	08/15/2006	EXAMINER	
HOLLAND & HART LLP 60 E. SOUTH TEMPLE SUITE 2000 SALT LAKE CITY, UT 84111			MACNEILL, ELIZABETH	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/819,458	MARTIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Elizabeth R. MacNeill	3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 May 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 24-30 and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) 30 and 43-45 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 24-29 and 42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

Art Unit: 3767

## DETAILED ACTION

1. This action is in response to applicant's filed 25 May 2006.

### *Drawings*

2. The drawings have been corrected and the objection is withdrawn.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24-29 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHIN (US #4,630,609).

Regarding claim 24, Chin teaches a triple lumen catheter for vascular access (Col 1 line 7) with three lumens. The first lumen (26) is defined by an inner tube (32). A first and second septum (32) defines two more lumens, a second lumen (34) and a third lumen (30) on each side of a transverse cross section of the catheter (Fig 4) wherein the interior space of the outer tube (14) is divided *only* by the first and second catheters. Additionally, there is a tapered distal tip (16) with three apertures: a first aperture (not numbered, shown in Fig 2), a second aperture (36) and a third aperture (not labeled, Fig 6). Chin does not explicitly teach the limitation that the first lumen is sized to accommodate a guide wire with a diameter of 0.036 inches to 0.038 inches. However, the use of guide wires in directing catheters through the vascular system, as

Chin catheter is designed to be used for, is well known in the art and to size the inner lumen accordingly would have been obvious to a person of ordinary skill in the art.

Regarding claim 25, constructing the inner diameter of first lumen to be about 0.04 inches is also obvious in light of the rejection of the 24, because the guide wire diameter would naturally be slightly smaller than the lumen.

Regarding claim 26, the first and second septum extend equal distances from the inner diameter of the outer tube to the outer diameter of the inner tube (Fig 4)

Regarding claim 27, the first and second septum are coplanar

Regarding claim 28, the transverse cross section of the second and third lumens are congruent.

Regarding claim 29, the second and third lumens have a C-shaped cross-section.

Regarding claim 42, Chin teaches a triple lumen catheter according to claim 24, with the additional limitations of a frustoconical distal tip (16) and an access means (Fig 3) attached to the proximal end of the inner and outer tubes with individual fluid communication to each of the three lumens.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 24-29 and 42 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM



KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

